IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2053 of 1987
A n d
Special Civil Application No.3283 of 1987
with
Civil Application
Nos.8274 and 8275 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed to see the judgement? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

OIL AND NATURAL GAS COMMISS LABOUR UNION

Versus

OIL AND NATURAL GAS COMMISS

Appearance:

1. Special Civil Application No. 2053 of 1987
NOTICE SERVED for Petitioner No. 1
NOTICE SERVED for Respondent No. 1,3,6
MR BR SHAH for Respondent No. 2
NOTICE NOT RECD BACK for Respondent No. 4
MR PM THAKKAR for Respondent No. 5

CORAM : MR.JUSTICE P.B.MAJMUDAR

Date of decision: 14/09/2001

ORAL JUDGEMENT

Civil Application Nos.8274 and 8275 of 2001 are filed for amendment.

The petitioners have prayed for setting aside the action of the respondents, by which the employees were removed from service. On behalf of the O.N.G.C. it is argued that the concerned employees are not employees of the O.N.G.C. and they were recruited at the relevant time through the Contractor. However, by allowing the amendment, the Court is not adjudicating the merits of the case and when the petitions are already pending, in my view, the amendment as prayed for can be granted. In that view of the matter, amendment prayed in each of these Civil Applications is granted. Original Petitions to be amended accordingly. Both the Civil Applications are accordingly allowed. Rule is made absolute with no order as to costs.

Mr.Vakil has appeared for the O.N.G.C., along with Messrs. Trivedi & Gupta for the O.N.G.C. I have heard all the concerned Advocates.

So far as the Special Civil Applications are concerned, considering the disputed questions of fact, whether the concerned employees were employees of the O.N.G.C. or whether the contract labour was camouflage, etc., the same cannot be decided in a petition under Article 226 of the Constitution of India. The petitioners are, therefore, relegated to the alternative remedy under the Industrial Disputes Act as well as the Contract Labour (Regulation and Abolition) Act, 1970. Considering the fact that the proceedings are pending in this Court since 1987, the proceedings should be expedited and upto the final stage, the proceedings may be decided, preferably within a period of one year from today.

The petitioners may take certified copy of this order and may place it before the appropriate authority for the purpose of expediting the matter. It is clarified that this Court has not expressed any opinion on the merits of the case as it is for the appropriate court to take decision on merits.

The petitions are disposed of accordingly. Rule is discharged with no order as to costs.

14th September, 2001 (P.B. Majmudar, J.)

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(apj)